

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 419 of 1997

For Approval and signature :

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

-
1. Whether Reporters of Local Papers may be allowed to see the Judgments ?
 2. To be referred to the Reporter or Not ?
 3. Whether Their Lordships wish to see the fair copy of the Judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge ?

Nos. 1 to 5 No.

GUJARAT STATE FERTILIZERS CO. LTD.

Versus

GULABBHAI H GOHIL

Appearance:

MR NV ANJARIA FOR MR DS NANAVATI for Petitioner
MR MS MANSURI for Respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of Order: 07/05/97

ORAL ORDER

The petitioner company had moved an application i.e. Approval Application (IT) No. 48/87. On this application, the Industrial Tribunal,(I), Baroda has passed an order on 13.9.1996 whereby the Tribunal has observed that it is to be adjudicated as to whether this application is to be treated as an Approval Application or permission application and only thereafter the final orders shall be passed. It appears that the Industrial Tribunal is of the view that if the application moved by

the petitioner company is found to be an Approval Application, it will stand disposed of as a matter of course in case the petitioner company wants to withdraw the Approval Application and in case it is found that the Permission Application should have been filed, the so called Approval Application will be treated as a Permission Application.

Mr. Anjaria has cited a decision in the case of Gujarat State Fertilizer Company Vs. State of Gujarat, reported in 1989(1) P.477 and has submitted that the petitioner company has an absolute right to withdraw the Approval Application and there is no bar under the law preventing him from withdrawing such Approval Application. There cannot be any quarrel with the position of law that it is open for the applicant to withdraw the Approval Application but here is a case in which the Tribunal has only passed the order so as to adjudicate after hearing both the sides as to whether the application moved by the petitioner company is to be treated as Approval Application or Permission Application. The Industrial Tribunal has yet not come to the conclusion that the application is to be treated as Approval Application or Permission Application nor the Industrial Tribunal has passed any final order rejecting the company's request to withdraw this application. The matter is yet pending before the Industrial Tribunal on the aspects as aforesaid. In this view of the matter, no final order has been passed by the Industrial Tribunal and the Industrial Tribunal may permit the petitioner to withdraw this application in case it is found by the Industrial Tribunal that it was a simple Approval Application, I do not find any basis to interfere with the impugned order dated 13.9.1996 at this stage. This application is accordingly dismissed. Rule is hereby discharged.
